

Proposed Land Classification - Lot 1 DP 1265902, being 13 George Julius Avenue, Zetland

File No: X101722.005

Summary

The purpose of this report is to obtain Council approval to notify a proposed resolution to classify as operational land the property at 13 George Julius Avenue, Zetland (being Lot 1 in DP 1265902) which is to be transferred by Lincon Epsom Projects Pty Ltd as trustee for the Lincon Epsom Projects Unit Trust (the Developer) to the City in accordance with registered Planning Agreement AN390315, as varied by a subsequent Deed of Variation to the Planning Agreement.

On 10 June 2016, the City entered into registered Planning Agreement AK511255 with the Lincon Development Pty Ltd (Developer) in relation to the development at 106-116 Epsom Road Zetland. The Planning Agreement was subsequently varied and superseded by Planning Agreement AN390315 on 28 May 2018 to align public benefits to the development staging. The Planning Agreement was novated due to the sale to the current Developer on 8 February 2022 and further varied by Deed of Variation of Planning Agreement AS045538 on 11 April 2022 to amend the staging of the public benefits to reflect the necessary infrastructure to support the delivery order of the buildings.

The Planning Agreement (as amended) requires the Developer to provide public benefits including:

- the transfer of a 6,234 m² Parkland Lot, (now being 13 George Julius Avenue), to the City for part of a future road (George Julius Avenue) and public reserve (Gunyama Park Stage 2); and
- the dedication and embellishment of 5,618m² as new roads.

A Plan of Subdivision was approved by the City on 2 May 2022, creating the lots for a five stage development including building development, the Parkland Lot and the new public roads that will be dedicated as road and open to traffic.

The Developer is now preparing to transfer 13 George Julius Avenue, Zetland (Parkland Lot) being Lot 1 in DP 1265902 for future road and public reserve to be delivered by the City.

The City will commence required remediation of the land and construction of the extension of George Julius Avenue and Stage 2 of Gunyama Park in July/August 2024.

It is essential that this parcel of land be classified as operational, on an interim basis, to facilitate the construction of the road and park and at a later stage be subdivided to dedicate the road and create a separate lot for Stage 2 Gunyama Park.

Section 31(2) of the Local Government Act 1993 (NSW) allows Council to resolve to classify land prior to Council acquiring the land.

This report seeks Council's endorsement to notify a proposed resolution to classify 13 George Julius Avenue, Zetland as operational land under the Local Government Act 1993.

Recommendation

It is resolved that Council:

- (A) endorse public notification of the proposed resolution: "It is resolved to classify 13 George Julius Avenue, Zetland (being Lot 1 of DP 1265902) which is to be transferred to Council for future public purposes as operational land in accordance with section 31 of the Local Government Act 1993"; on the basis that:
 - (i) the primary future use of the land is for park, open space, and active and/or passive recreation and road;
 - (ii) the classification is an interim measure to support construction and delivery of the new park and road; and
 - (iii) following completion of the park and road and conclusion of obligations set out in registered Planning Agreement AN390315 and Deed of Variation AS045538, the land will be further subdivided creating separate portions for the road to be dedicated and for the park to be classified as Community land and categorised within a plan of management; and
- (B) note that a further report to Council, to inform the outcomes of public notification and recommendation on classification will follow the notification period.

Attachments

Attachment A. Identification Plans

Background

1. On 30 July 2013, consent was granted for the Stage 1 Development Application for demolition of existing structures, proposed land uses including retail/commercial floor space and residential uses, building envelopes including basements, internal street layout including footpaths and other pedestrian/cycle within the site, location and development of open space as per the landscape concept plan concept for infrastructure upgrades including stormwater and flood mitigation measures, and development staging (D/2011/1760).
2. On 10 June 2016, the City entered into registered Planning Agreement AK511255 with the then property owner, Lincon Development Pty Ltd, in relation to the Stage 1 Development Consent. The Planning Agreement provides for public benefits being:
 - (a) the construction and dedication of road reserves including:
 - (i) approximately 1406.3m² for part of a north-south road (George Julius Avenue);
 - (ii) approximately 1841.6m² for an east-west road (Peters Street);
 - (iii) approximately 831.9m² for a north-south through site link (Letitia Street);
 - (iv) approximately 1426.7m² for an east-west road (Rose Valley Way); and
 - (v) approximately 111.5m² for a footway widening (Epsom Road frontage); together with
 - (b) the transfer of a 6,234 m² Parkland Lot (now 13 George Julius Avenue) to the City for part of a future road (George Julius Avenue) and public reserve (Gunyama Park Stage 2).
3. The terms of the Planning Agreement required the dedication of the Parkland Lot prior to the issue of the first Occupation Certificate for any part of the Development, with all other public benefits to be provided prior to the relevant Occupation Certificate under a Stage 2 Development Consent. The Parkland Lot will allow the City to complete Stage 2 of Gunyama Park and an extension of George Julius Avenue to connect to Zetland Avenue.
4. On 28 May 2018, the City entered into registered Planning Agreement AN390315 (which varied and superseded registered Planning Agreement AK511255) to facilitate a change to the staging and scope of the public benefits to align with the detailed Stage 2 Development Application (D/2015/913) and include the upgrade of the stormwater channel through the site (Green Square Stormwater Drain Works) and additional road reserves (Rose Valley Way and Epsom Road setback).
5. On 8 February 2022, a Deed of Novation was executed, transferring the obligations of the Planning Agreement (as amended) from Lincon Development Pty Ltd to Lincon Epsom Projects Pty Limited.
6. On 11 April 2022, the City entered into registered Deed of Variation of Planning Agreement AS45538 to change the order in which the infrastructure is delivered to support the order in which the buildings are to be completed. The provision of the Parkland Lot remains to be delivered prior to the first Occupation Certificate for any part of the Development.

On 2 May 2022, the City approved the Plan of Subdivision, creating the lots for the building developments, the new public roads and Parkland Lot (future road and public reserve) over five stages. The first two stages of the subdivision have been enacted, creating the Parkland Lot (Lot 1 of DP 1220949) known as 13 George Julius Avenue.

8. The first of the Buildings in the Development is nearing completion and the Developer is preparing to transfer the Parkland Lot (Lot 1 of DP 1220949) to the City in March 2024.
9. On 11 December 2023, Council endorsed the project scope for Gunyama Park Stage 2 and George Julius Avenue North.
10. The City intends to commence any required remediation of the land and construction of the extension of George Julius Avenue and Stage 2 of Gunyama Park in July/August 2024.
11. The Developer has requested to continue to occupy the Parkland Lot following transfer in order assist in ongoing construction activities in the Development. The Developer will be required to enter into a Construction Access Licence for this purpose and then vacate the site prior to the City's commencement of works in July/August 2024.
12. To facilitate the future development of the road and park by the City, it is essential that an interim operational land classification be applied.
13. The City will further subdivide the land creating:
 - (a) the road portion to be dedicated as road on completion; and
 - (b) the land for Gunyama Park Stage 2 which will, at completion and operational integration, be reclassified as community and categorised within a plan of management.
14. Attachment A: Identification Plans shows the development site in the context of the surrounding area and the land to be transferred to the City.

Key Implications

Organisational Impact

15. There is no organisational impact arising from this proposed resolution to classify this lot as operational land.

Financial Implications

16. The classification of land under the Local Government Act 1993 (NSW) does not have any direct budgetary implications. Once 13 George Julius Avenue is transferred to the City, it will be recognised as in-kind contributions income, and held as land asset in accordance with the City's Infrastructure, Property, Plant and Equipment (IPPE) Asset Recognition and Capitalisation Policy.

Relevant Legislation

17. The following sections of the Local Government Act 1993 are relevant:
 - (a) Section 25 requires all public land to be classified as either community or operational land;
 - (b) Section 31(2) permits Council to resolve to classify land prior to acquisition;
 - (c) in satisfaction of section 31(3), the proposed resolution is not inconsistent with the planning agreement (as registered and amended on title) nor any other Act or the terms of any trust applying to the land; and
 - (d) Section 34 requires the proposed resolution to classify be publicly notified and made available for inspection by the public for a period of no less than 28 days.

Critical Dates / Time Frames

18. Land needs to be classified within three months of land transfer to the City or the land automatically reverts to a community classification.
19. As the land is proposed to be transferred to the City in March 2024, the classification would need to be endorsed no later than June 2024.

Options

20. If the land is not classified as operational within three months of transfer to the City, it will revert to a community classification under the Local Government Act 1993 (NSW). A community classification for unimproved land to be embellished by the City would restrict and impede the City's capacity to undertake the construction of the public infrastructure and unnecessarily complicate the ultimate dedication as public road and public reserve.

Public Consultation

21. Subject to Council endorsing the recommendation, the proposed resolution will be publicly notified as soon as possible for a minimum period of 28 days.
22. All submissions will be considered in the subsequent Council report to endorse the classification.

KIM WOODBURY

Chief Operating Officer

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